IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.R.No.29 of 1990
Date of decision: 13.10.2006

The Commissioner of Income-tax, Amritsar

..Applicant
through
Dr. N.L.Sharda, Advocate

v.

M/s Surinder Sugar Store, Amritsar.

..**Respondent**
through
Mr. Suvir Sehgal, Advocate

CORAM:

Hon'ble Mr.Justice Adarsh Kumar Goel
Hon'ble Mr.Justice Rajesh Bindal

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Rajesh Bindal, J.

At the instance of the Revenue, the Income-tax Appellate Tribunal, Amritsar Bench (for short, `the Tribunal') has referred, under Section 256(1) of the Income-tax Act, 1961 (for short, `the Act'), the following question for the opinion of this Court arising out of ITA No. 1372 (ASR)/1979, pertaining to the assessment year 1976-77:

> "Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in deleting the addition of Rs. 23,835/- made by the Income-tax Officer under Section 40A(3) of the Income-tax Act, 1961 and sustained by the Commissioner of Income-tax (Appeals)?"

The Tribunal, in the present case, had followed its earlier order passed for the assessment year 1975-76 under identical facts and circumstances, wherein even though gross profit rate was applied, still disallowance was made under Section 40A(3) of the Act. While dealing with the reference for the assessment year 1975-76 in I.T.R. No.56 of 1990, decided today by a separate

order, we have answered the question against the Revenue and in favour of the assessee. For the reasons recorded therein, the question referred in the present reference, is answered against the Revenue and in favour of the assessee.

The reference is disposed of in the manner indicated above.

(Rajesh Bindal)
Judge

(Adarsh Kumar Goel)
Judge

13.10.2006
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